

Office of Personnel Management

§ 294.111

(ii) *The primary interest in disclosure.* Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requester.”

(3) In all cases the burden of proof shall be on the requester to present evidence or information in support of a request for a waiver or reduction of fees.

(g) *Denial of waiver request.* (1) An OPM official may deny a request for a full or partial waiver of fees without further consideration if the request does not include:

(i) A clear statement of the requester’s interest in the requested information;

(ii) A clear statement of the use proposed for the information and whether the requester will derive income or other benefit from such use;

(iii) A clear statement of how the public will benefit from OPM’s release of the requested information; and

(iv) If specialized use of the documents is contemplated, a clear statement of the requester’s qualifications that are relevant to the specialized use.

(2) A requester may appeal the denial of a waiver request as provided by § 294.110 of this part.

(h) *Fees not paid; penalties; debt collection.* (1) If a request, which requires the advance payment of fees under the criteria specified in this section, is not accompanied by the required payment, OPM will promptly notify the requester that the required fee must be paid within 30 days, and that OPM will not further process the request until it receives payment.

(2) OPM may begin assessing interest charges on an unpaid bill starting on the 31st day following the date on which the bill was sent. Interest will be charged at the rate prescribed in 31 U.S.C. 3717, and will accrue from the date of the billing.

(3) To encourage the repayment of debts incurred under this subpart, OPM may use the procedures authorized by Public Law 97-365, the Debt Collection Act of 1982. This may include disclo-

sure to consumer reporting agencies and the use of collection agencies.

[58 FR 32044, June 8, 1993]

§ 294.110 Appeals.

(a) When an OPM official denies records or a waiver of fees under the Freedom of Information Act, the requester may appeal to the—

Office of the General Counsel, Office of Personnel Management, Washington, DC 20415

(b) A person may appeal denial of a Freedom of Information Act request for information maintained by OPM’s Office of the General Counsel to the—

Deputy Director, Office of Personnel Management Washington, DC 20415

(c) If an official of another agency denies a Freedom of Information Act request for records in one of OPM’s Government-wide systems of records, the requester should consult that agency’s regulations for any appeal rights that may apply. An agency may, at its discretion, direct these appeals to OPM’s Office of the General Counsel.

(d) An appeal should include a copy of the initial request, a copy of the letter denying the request, and a statement explaining why the appellant believes the denying official erred.

(e) The appeals provided for in this section constitute the final levels of administrative review that are available. If a denial of information or a denial of a fee waiver is affirmed, the requester may seek judicial review in the district court of the United States in the district in which he or she resides, or has his or her principal place of business, or in which the agency records are situated, or in the District of Columbia.

§ 294.111 Custody of records; subpoenas.

(a) The Chief, Plans and Policies Division, Administration Group, OPM, has official custody of OPM records. A subpoena or other judicial order for an official record from OPM should be served on the—

Chief, Plans and Policies Division, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415